

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

RICHARD W. DAVIS, JR.,

Defendant,

and

DCG REAL ASSETS, LLC, *et al.*,

Relief Defendants.

CASE NO. 3:16-CV-285

**CONSENT ORDER REGARDING
LATE-FILED CLAIM**

THIS MATTER came before the Court on the consent of A. Cotten Wright, the duly appointed receiver in this case (the “Receiver”), and the holder of Claim 166 (the “Claimant”) relative to the late-filed claim based on investments in Receivership Defendant DCG PMG, LLC totaling \$300,000.00, by and through their respective counsel.

BACKGROUND

On September 5, 2018, Claimant submitted Claim 166 alleging a claim in this case for \$300,000.00 in connection with funds transferred to DCG PMG, LLC in November 2011 and April 2012, respectively.

On September 12, 2018, the Receiver filed an objection to Claim 166 based on its being tardy.

On October 10, 2018, the Court entered its *Order on Receiver’s Objection to Late-Filed Claim* (the “Order”) (Doc. No. 218), pursuant to which Claim 166 was disallowed.

Since the date that the Order was entered, the Receiver has obtained additional information regarding Claim 166. The Receiver has been informed that, although no email correspondence with the Claimant was rejected, nevertheless the Claimant has not actively used the yahoo email address on which the Claimant has been served throughout this case in the past five or six years.

Claim 166 included a copy of email correspondence with the Claimant from Defendant Richard Davis (“Davis”) that was dated post-receivership but made no reference to this case. Davis’s post-receivership communication with the Claimant was conducted through a different email address, which remains active; however, Davis failed to report the Claimant’s new email address to the Receiver.

On or about August 16, 2017, the Receiver mailed claims packets, including notice of the claims deadline and claim forms, to all known investors at the addresses provided by the Securities and Exchange Commission. The claims packet mailed to the Claimant was not returned. Nevertheless, the Receiver has learned that the mailing address for the Claimant had changed before this case was initiated.

Finally, counsel for the Claimant has informed the Receiver that the Claimant only learned about this case when counsel conducted an online search for information regarding DCG PMG and Richard Davis. Claim 166 was submitted promptly thereafter.

Given these facts, the Claimant and the Receiver have agreed that the Order disallowing Claim 166 should be rescinded and Claim 166 should be allowed.

The Court, having reviewed the Objection, the Order, and this Consent Order has determined that the Order (Doc. No. 218), should be rescinded, and that Claim 166 shall be allowed in the amount of \$300,000.00 as though timely filed.

SO ORDERED.

Signed: October 26, 2018



Graham C. Mullen
United States District Judge



APPROVED FOR ENTRY BY:

/s/ A. Cotten Wright

A. Cotten Wright (State Bar No. 28162)
Grier Furr & Crisp, PA
101 North Tryon Street, Suite 1240
Charlotte, NC 28246
Phone: (704) 332-0207
Email: cwright@grierlaw.com
Attorneys for the Receiver

/s/ Amber J. Handy

Amber J. Handy
Handelin Law
P.O. Box 4568
Carson City, NV 89702
(775) 882.8032 Telephone
(775) 474.7751 Facsimile
Email: amber@handelinlaw.com
Attorneys for the Claimant